



No public utility, as defined in § 65-4-101, shall transfer all or any part of its authority to provide utility services, derived from its certificate of public convenience and necessity issued by the authority, to any individual, partnership, corporation or other entity without first obtaining the approval of the authority.

Tenn. Code Ann. § 65-4-113(b) includes the standards by which the TRA shall consider an application for transfer of authority, in pertinent part, as follows:

Upon petition for approval of the transfer of authority to provide utility services, the authority shall take into consideration all relevant factors, including, but not limited to, the suitability, the financial responsibility, and capability of the proposed transferee to perform efficiently the utility services to be transferred and the benefit to the consuming public to be gained from the transfer. . . .

TRA approval of mergers between public utilities holding a CCN in the State of Tennessee is required under Tenn. Code Ann. § 65-4-112(a), which provides as follows:

No lease of its property, rights, or franchises, by any such public utility, and no merger or consolidation of its property, rights and franchises by any such public utility with the property, rights, and franchises of any other such public utility of like character shall be valid until approved by the [A]uthority, even though power to take such action has been conferred on such public utility by the state of Tennessee or by any political subdivision of the state.

Finally, when a customer base is transferred from one telecommunications service provider to another, TRA Rule 1220-4-2-.56(2)(d) provides that sufficient notice has been given to affected customers when the following criteria has been met:

2. A notification letter, pre-approved by the Authority, shall be mailed by U.S. First Class Postage by the telecommunications service provider being acquired to its customers describing the customer transfer and explaining that the customers' local or long distance service will be transferred to the acquiring telecommunications service provider by a certain date unless the customer selects another telecommunications service provider. This customer notification shall be mailed to the customers no less than thirty (30) days prior to the actual customer transfer. The notification letter required by the FCC may be used for the notification purposes of this part. The Authority may waive the thirty (30) day notice requirement of this part for good cause shown.
3. The acquiring telecommunications service provider agrees to pay any fees charged to the customer associated with changing service to the acquiring telecommunications service provider. The notification letter required in 1220-4-2-.56(2)(d)(2) shall inform the customer of this provision.

4. The acquiring telecommunications service provider agrees to provide to the affected customers a thirty (30) day written notice of any rate increase that may affect their service up to ninety (90) days from the date of the transfer of customers. The notification letter mentioned in 1220-4- 2-.56(2)(d)(2) shall inform the customer of this provision.

### **Background**

WorldCom, Inc. is a Georgia corporation which, while holding no CCN itself, is the direct or indirect, 100% owner of six Tennessee telecommunications subsidiaries (collectively "Subsidiaries"), each possessing at least one CCN to operate in the State of Tennessee:

- 1) **MCI WorldCom Communications, Inc.** ("MCI WorldCom"): A Delaware corporation which received Tennessee authorization to provide resold intrastate long distance services in Tennessee Public Service Commission ("TPSC") Docket No. 95-03308 by Order dated October 7, 1995 and to provide CLEC<sup>1</sup> services by transfer in Docket No. 97-01207 by Order dated July 15, 1997.
- 2) **MCI WorldCom Network Services, Inc.** ("MCI WorldCom Network"): A Delaware corporation which received Tennessee authorization to provide resold intrastate long distance services in TPSC Docket No. 95-03308 by Order dated September 19, 1995.
- 3) **MCImetro Access Transmission Services, Inc.** ("MCImetro"): A Delaware corporation<sup>2</sup> which received Tennessee authority as an IXC<sup>3</sup> and CLEC in TPSC Docket No. 93-08793 by Order dated November 20, 1995.
- 4) **Brooks Fiber Communications of Tennessee, Inc.** ("Brooks Fiber"): A Delaware corporation authorized to provide IXC and CLEC services in Tennessee in TPSC Docket No. 95-02764 by Order dated August 30, 1995.
- 5) **Metropolitan Fiber Systems of Tennessee, Inc.** ("Metro Fiber"): A Delaware corporation authorized to provide CLEC telecommunications services in Tennessee in TPSC Docket No. 94-02564 by Order dated August 24, 1995.
- 6) **Intermedia Communications, Inc.** ("Intermedia"): A Delaware corporation authorized to provide IXC and CLEC telecommunications in Tennessee in TRA Docket No. 96-00942 by Order dated September 17, 1996.

### **The Petition**

WorldCom filed this *Petition* with the TRA on September 19, 2003, seeking expedited approval of certain mergers and transfers of control to take place as part of its Bankruptcy Reorganization Plan (the "Plan") and its emergence from bankruptcy protection under Chapter 11 of

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<sup>1</sup> CLEC - Competitive Local Exchange Carrier.

<sup>2</sup> The Petition and the Tennessee Secretary of State's Office list this company as a Delaware Limited Liability Company though the change has, apparently, not been noted in TRA records.

<sup>3</sup> IXC - Inter Exchange Carrier.

the Federal Bankruptcy Code 11 USC § 1101 *et seq.* According to the *Petition*, WorldCom and 221 of its direct and indirect subsidiaries (the “Debtors”) commenced cases on July 21 and November 8, 2002 under Chapter 11 in the Bankruptcy Court for the Southern District of New York (the “Court”) and have continued to operate without interruption during these reorganization proceedings. Under the Plan resulting from these proceedings, WorldCom will be reincorporated in Delaware and will change its name to MCI, Inc. (“MCI”). Thereafter, MCI WorldCom Network will merge into its parent, MCI WorldCom which, along with Brooks Fiber and Metro Fiber, will merge into MCImetro. Finally, Intermedia will be merged into a newly-formed, wholly-owned subsidiary of MCI at the time of emergence from bankruptcy. The surviving certificated subsidiaries in Tennessee will be Intermedia and MCImetro, the subsidiary providing local exchange service in Tennessee and assuming the CCNs of MCI WorldCom Network, MCI WorldCom, Brooks Fiber, and Metro Fiber. All subsidiaries and CCNs will ultimately be owned by MCI. Without waiving its position that the TRA’s jurisdiction in this matter has been preempted by sections 1123(a)(5) and 525 of the United States Bankruptcy Code and the Court’s authority to approve the Plan, WorldCom is seeking the TRA’s approval of these transactions and transfers under Tenn. Code Ann. §§ 65-4-112 and 113 while maintaining its right to raise the federal preemption issue in this matter at a later date if it so chooses.

In order to notify customers receiving service from a merged company of the change in service provider, WorldCom is also seeking approval of a customer notification letter. TRA Rule 1220-4-2-.56(2)(d) provides that, in case of a transfer of customer base from one telecommunications service provider to another, the TRA may deem that the provider whose customer base is being acquired has met the notification requirements of the TRA’s anti-slamming rules by sending a letter to its affected customers notifying them of the change in provider. This rule requires TRA approval of the letter and, by implication, of the transfer of customer base. The final version of WorldCom’s customer notification letter was submitted for TRA approval on October 20, 2003, in total

compliance with the requirements of the Rule, and the transfer will occur following compliance with the thirty-day notice requirement.

### **Public Interest Considerations**

According to the *Petition*, these transactions represent only an internal reorganization which will be invisible to consumers. The *Petition* states that these transactions will facilitate the re-emergence of WorldCom as MCI with a revised ownership structure and improved capitalization, which will allow MCI to continue to provide uninterrupted service to its customers and to continue to provide competition in the Tennessee telecommunications market. Upon completion of these transactions, MCI intends to retain the current officers and management of WorldCom and to maintain the current rates, terms, and conditions of service to its approximately 400 Tennessee customers.

### **The October 21, 2003 Authority Conference**

At the October 21, 2003 Authority Conference, representatives of WorldCom<sup>4</sup> provided an update to the TRA on the status of the Company's reorganization. According to WorldCom, the Company has hired a new Chief Executive Officer ("CEO"), a new Chief Financial Officer, a new General Counsel, and a new Ethics Officer who reports directly to the CEO and has rehired 400 accountants to replace the financial structure that contributed to many of the Company's difficulties. WorldCom has also hired two outside accounting firms to organize the Company's financial records and establish some much needed processes and procedures.

The Company represented that the bankruptcy proceedings are coming to a rapid conclusion, with ninety-nine percent of the Company's creditors having signed off on the reorganization plan and the needs of only a few remaining creditors, out of thousands, needing to be addressed. WorldCom

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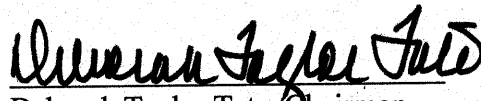
<sup>4</sup> Marsha Ward, Ken Woods, and Jon Hastings appeared on behalf of MCI at the October 21 Conference.

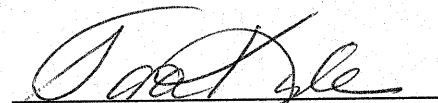
estimated that final approval from the Court should be forthcoming in the next couple of weeks and, following state approval of the proposed transaction, the Company will move forward with the mergers and transfers of customer base intended to streamline the organization.

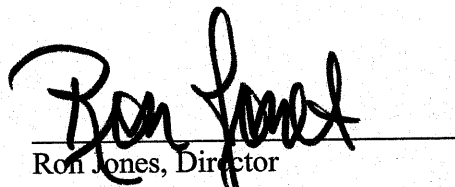
Based on the foregoing information, the Directors found that the proposed transactions are in the public interest and voted unanimously to approve the mergers, the transfers of authority, the customer notification letter, and, by implication, the transfer of customer base. It was determined that MCI would file new tariffs with the TRA and petition for cancellation of the local service portion of the CCNs assumed by MCImetro following final approval of the Plan by the Court.

**IT IS THEREFORE ORDERED THAT:**

1. The mergers as described in the *Petition* and herein are approved.
2. The transfers of authority as described in the *Petition* and herein are approved.
3. The customer notification letter submitted for TRA approval on October 20, 2003, is approved.
4. The transfers of customer base as described in the *Petition* and herein are approved.

  
Deborah Taylor Tate, Chairman

  
Sara Kyle, Director

  
Ron Jones, Director